

This letter discusses the rolling stock exemption. See 86 Ill. Adm. Code 130.340. (This is a GIL.)

January 29, 2004

Dear Xxxxx:

This letter is in response to your letter dated July 7, 2003, in which you request information. We apologize for the delay in responding to your inquiry. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

On behalf of a client in the Industry I need clarification on the following issues for purposes of determining if an item of rolling stock qualifies for a Rolling Stock Exemption:

- 1) In order to determine if a Tractor makes at least 51% of its total trips crossing the Illinois border or outside Illinois the following is a typical example of the stops which can occur in the delivery of a load.

A load is picked up in CITY5. One Bill of Lading for the for the entire load is issued. The load is delivered to Illinois customers in CITIES, CITY2, CITY2 (2nd stop) with a final stop to a customer in CITY/STATE.

Is the above scenerio considered to be one trip or six trips for the purpose of determining the number trips for a monthly period for a Tractor?

- 2) A Warehouse in CITY5 receives shipments of Products from Mills primarily outside of Illinois. The Warehouse takes delivery and then stores the PRODUCT for shipment to Customers.

A Common Carrier licensed under the Interstate Commerce Commission uses its Trailer to deliver the PRODUCT from the CITY5 Warehouse to the Warehouse's Customers in Illinois.

In the above example, is the Common Carrier's Trailer considered to be engaged in Interstate Commerce?

Please review the above situations and issue a Private Letter Ruling regarding these two questions. If you need more clarification, you may contact me at your convenience.

DEPARTMENT'S RESPONSE:

Based upon the Department's emergency rules regarding the rolling stock exemption, which have currently expired, your scenario would reference six trips. See Section 130. 340 of the Department's administrative rules regarding the rolling stock exemption on Department's Internet website at <http://www.revenue.state.il.us/legalinformation/regs/part130/130-340.pdf>. Based upon the aforementioned emergency rules, the trailer would be considered to be engaged in interstate commerce. Please note that the test for trailers is different that for motor vehicles. The scenario you mentioned would not qualify as a trip for purposes of the 51% trips test for motor vehicles.

The Department has been discussing the rolling stock exemption with representatives of the trucking industry, and we hope to issue a proposed rulemaking on this issue in the near future. Please watch the Department's Internet website for any new information on this rulemaking.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk